

YetterColeman LLP

October 9, 2015

Via CM/ECF

The Honorable Gregg J. Costa
515 Rusk St., Room 4627
Houston, Texas 77002

Re: No. 6:12-cv-00014, *Bear Ranch, LLC v. HeartBrand Beef, Inc., et al.*, in
the U.S. District Court for the Southern District of Texas

Dear Judge Costa:

Mindful that the Court doesn't want a stampede of letters on these issues, Bear Ranch wishes just to address two incorrect statements in HeartBrand's October 5 letter:

- It objects to paying the Order's buyback price for "hundreds of new calves." Dkt. #245 at 6. But its expert never raised *any* cost issue for calves at trial. He didn't even note in his report the total number of calves (553). *See* Bear Ranch Inventory (Mar. 31, 2014). Moreover, the buyback price is an *average* for a mix of new and mature animals, including calves. Today there are about the same number of calves in the herd (566, of which the buyback covers 545).
- It states that "equitable monetary remedies were awarded notwithstanding the statute of frauds" in *Nelson v. Najm*. Dkt. #245 at 4 n.2. The case did not involve the statute of frauds *at all*, let alone stand for the proposition that an unenforceable promise barred by the statute can be enforced via equity.

Of course, we are happy to address any specific questions the Court may have.

Respectfully submitted,



Counsel for Bear Ranch, LLC

cc: James A. Reeder, Jr., Esq.